(Translation)

THE PROTECTION OF NAZIMS AND SERVANTS ACT.

No. IV of 1314 Fasli.

(Received the assent of the Madarul Moham on 17th Shehrewar, 1314 Fasli.)

Preamble. Whereas it is expedient to protect the Nazims and the servants to a reasonable extent;

It is hereby enacted as follows :—

Title and Commencement. 1. This *[act] may be called the "Protection of Nazims and Servants Act" and it shall come into force from 1st Azur, 1315 Fasli.

Definitions. 2. Unless there is anything repugnant in the subject or context :—

"Nazim" means every Nazim of a Civil and Criminal Court and every

*Published in the Jarida dated 8th Mehar, 1314 F.

قانون

حفاظت نظماء و ملازمان

نشان (۴) سنہ ۱۳۱۴ف

(مدار المہام سرکار عالی نے بتاریخ ۱۷ شہریور ۱۳۱۴ف منظور فرمایا۔)

تمہید۔ | ہرگاہ قرین مصلحت ہے کہ نظماء و ملازمان کی ایک مناسب حد تک حفاظت کیجائے لہٰذا حسب ذیل حکم ہوتا ہے :—

نام و تاریخ نفاذ۔ | **دفعہ ۱**۔ یہ قانون "قانون حفاظت نظماء و ملازمان" کے نام سے موسوم ہو سکے گا اور یکم آذر ۱۳۱۵ف سے نافذ ہوگا۔

تعریفات۔ | **دفعہ ۲**۔ بجز اُس کے کہ مضمون یا سیاق عبارت اُس کے خلاف ہو۔

"ناظم" سے مراد ہر ناظم عدالت دیوانی و فوجداری و ہر حاکم مال اور ہر ایسا شخص ہے جو

*جریدہ اعلامیہ مورخہ ۸ مہر ۱۳۱۴ف۔

revenue authority and every person appointed by the *[Government]or by a competent officer to enquire into or settle the civil, criminal or revenue disputes.

"servant" also includes a person who is temporarily appointed by the *[Government] or by any Nazim to carry out an order given in connection with a judicial proceeding.

"judicial proceeding" includes every proceeding, order and judgement which a Nazim may adopt, pass or give for the settlement of any civil, criminal or revenue dispute.

Protection of Nazims.

3. †[(1) No suit shall be instituted in a Civil Court against a Nazim in respect of any judicial proceeding whether such proceeding may or may not be within the powers of the Nazim :

Provided that such Nazim believes in good faith that he is competent to adopt such a proceeding.

Protection of servant.

(2) No suit shall lie in a Civil Court against a servant, bound to execute the order of a Nazim, in respect of the execution of an order passed by a Nazim in a judicial proceeding, the execution whereof would have been obligatory on him if the Nazim had acted intra vires.]

*As amended by Act No. III of 1308 F.
†As mended by Act No. III of 1321 F.

دیوانی۔ فوجداری یا مالی نزاعوں کے تحقیقات یا فیصل کرنے پر [سرکار عالی] یا عہدہ دار مجاز کی طرف سے مامور ہو۔

"ملازم" کے مفہوم میں وہ شخص بھی داخل ہے جس کو عارضی طور پر [سرکار عالی] نے یا کسی ناظم نے عدالتی کاروائی کے متعلق کسی حکم کی تعمیل کیلئے مقرر کیا ہو۔

"عدالتی کاروائی" کے مفہوم میں ہر کاروائی اور حکم اور تجویز جو ناظم کسی نزاع دیوانی یا فوجداری یا مال کے فیصلہ کے لئے کرے داخل ہے۔

حفاظت نظماء۔ [دفعہ ۳ ۲] (۱) کسی ناظم پر کسی عدالتی کاروائی کی بابت عدالت دیوانی میں دعویٰ نہ ہو سکے گا خواہ وہ کاروائی ناظم مذکور کے اختیارات کے اندر ہو یا نہ ہو۔

مگر شرط یہ ہے کہ ناظم مذکور نیک نیتی سے یہ باور کرتا ہو کہ وہ ایسی کاروائی کا مجاز ہے۔

حفاظت ملازم۔ (۲) کسی ملازم پر جس پر کسی ناظم کے حکم کی تعمیل لازم ہو کسی ایسے حکم کی تعمیل کی بابت عدالت دیوانی میں دعویٰ نہ ہو سکے گا جو کسی ناظم نے عدالتی کاروائی میں صادر کیا ہو اور جس کی تعمیل اس پر لازم ہوتی اگر ناظم مذکور اپنے اختیارات کے اندر عمل کرتا۔

۱ ۔ ترمیم بموجب قانون نشان (۳) ۱۳۱۸ف
۲ ۔ ترمیم بموجب قانون نشان (۲) ۱۳۲۱ف

(Translation)

THE HYDERABAD ABKARI ACT.

قانون آبکاری ممالک محروسہ سرکار عالی

No. I of 1316 Fasli.

نشان (۱) سنہ ۱۳۱۶ف

Sections.

دفعہ۔

Preamble.

تمہید۔

CHAPTER I.

باب (۱)

PRELIMINARY AND DEFINITIONS.

مراتب ابتدائی و تعریفات۔

1. Short title, extent and commencement.
2. Definitions.

(1) Abkari Revenue.

(2) Abkari Officer.

(2.A.) Excise Commissioner.

(3) Collector.

(4) Criminal court

۱ مختصر نام۔ وسعت مقامی و تاریخ نفاذ۔

۲ تعریفات۔

(۲) عہدہ دار آبکاری۔

(۴) عدالت فوجداری۔

(5) Sendhi.

(۵) سیندھی ۔

(5-A.) Spirits.

(6) Liquor.

(۶) شراب ۔

(7) Distilled liquor.

(۷) شراب مقطر ۔

(8) Fermented liquor.

(۸) شراب مخمر ۔

(9) Country liquor.

(9-A.) State liquor.

(10) European liquor.

(۱۰) شراب ولایتی ۔

(11) Foreign liquor.

(12) Intoxicating drugs (omitted).

(۱۲) اشیاء منشی (حذف) ۔

(13) Import.

(14) Export.

(15) Transport.

(16) Manufacture.

(17) Abkari tree.

(۱۷) درخت آبکاری ۔

(18) Bottle.

(19) Rectification.

(20) Place.

(21) Materials.

(22) Prescribed.

(23) Sale or selling.

(Translation)

CHAPTER II.

POWERS OF THE GOVERNMENT.

3. Powers of the Government

3.A. Powers of Commissioner of Abkari.

4. Power to grant lease.

5. Power to fix duty.

6. Licensce may issue permits for transport.

7. Procedure for the recovery of excise dues and connected dues.

باب (۲)

اختیارات سرکار عالی۔

۳ سرکار عالی کے اختیارات ۔

۳ (الف)۔ اختیارات ناظم آبکاری ۔

۴ تعہد دینے کا اختیار ۔

4-A. Establishment of Public Distilleries and Warehouses.

4-B. Power of Government to exempt any articles or any area from the operation of this Act.

۵ محصول مقرر کرنے کا اختیار ۔

(Translation)

CHAPTER III.

IMPORT, EXPORT, TRANSPORT, POSSESSION, MANUFACTURE AND SALE.

باب (۳)

درآمد۔ برآمد۔ نقل و ارسال۔ قبضہ۔ ساخت و فروخت

8. Prohibition of import and export of liquor or mohwa flowers.

۸ شراب یا گل مہوہ کے درآمد و برآمد کی ممانعت۔

9. Prohibition of transport of liquor or mohwa flowers.

۹ شراب یا گلہوہ کے نقل و ارسال کی ممانعت۔

10. Matters prohibited without obtaining licence.

۱۰ بلا حصول اجازت نامہ کن امور کی ممانعت ہے۔

10-A. Prohibition of cutting down or destroying Government Abkari tree.

۱۰ (الف)۔ سرکاری درخت آبکاری کو کاٹنے یا تلف کرنے کی ممانعت۔

11 Prohibition of keeping liquor, etc., in possession.

12. Prohibition to sell liquor, etc.

۱۲ شراب وغیرہ فروخت کرنے کی ممانعت۔

13. Mode of recovering duty.

۱۳ محصول وصول کرنے کا طریقہ۔

13-A. Tax for tapping unlicensed trees from whom leviable.

13-B. Tapping of trees situated on patta lands and payment of owner's fee thereof.

14. Lessee not to declare any person to be his partner.

CHAPTER IV.

POWERS AND DUTIES OF OFFICERS.

15. Powers of Collector.

16. When licence be suspended or cancelled.

17. Criminal Court may give order for search.

18. Power to make search without search-warrant.

19. Power of arrest.

19-A. Liability of certain things to seizure.

20. Abkari Officer may enter into place in occupation of licensee.

21. Arrest in order to ascertain name of accused.

22. Person or property to be produced before Collector.

22-A. Release if bond is furnished.

22-B. Arrested person shall have to furnish bail with security for release.

22-C. Procedure to recover penalty in case of non-attendance.

۱۴ تعہد دار مجاز نہ ہوگا کہ کسی کو اپنا شکمی دار یا حصہ دار قرار دے ۔

(۴) باب

اختیارات و فرائض عہدہ داران ۔

۱۵ تعلقدار کے اختیارات ۔

۱۶ اجازت نامہ کب معطل یا منسوخ ہوسکے گا ۔

۱۷ عدالت فوجداری تلاشی کا حکم دے سکے گی ۔

۱۸ بلا حکم نامہ تلاشی، تلاشی کا اختیار ۔

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۲۰ عہدہ دار آبکاری شخص اجازت یافتہ کے مقبوضہ مقام میں داخل ہوسکتا ہے ۔

۲۱ مجرم کا نام دریافت کرنے کی غرض سے گرفتاری ۔

۲۲ شخص یا مال کا تعلقدار کے روبرو پیش ہونا ۔

۲۲ (الف) ۔ مچلکہ داخل ہونے پر رہائی ۔

۲۲ (ب) ۔ گرفتار شدہ شخص کو رہائی کے لئے مچلکہ معہ ضمانت داخل کرنا ہوگا ۔

۲۲ (ج) ۔ عدم حاضری کی صورت میں وصول تاوان کی کارروائی ۔

23. Search, how made and bail, how admitted.

۲۳ تلاشی یا ضمانت کس طرح عمل میں آئے گی۔

24. Assistance to be rendered to Abkari Officer.

۲۴ عہدہ دار آبکاری کی امداد۔

24-A. Offences to be reported by State employees.

25. Matters to be reported by land holder.

۲۵ امور جن کی اطلاع دینا قابض اراضی پر لازم ہے۔

26. Power to hold preliminary enquiry.

27. Power to issue summons.

28. Procedure as to prisoners under trial.

28-A. Report of Abkari Officer gives jurisdiction to Criminal Court.

29. Who shall be placed in charge of property seized.

۲۹ گرفتار شدہ مال کس کے سپرد کیا جائے گا۔

30. Power to close the shop for prevention of breach of peace.

(Translation)

CHAPTER V.

INQUIRIES INTO OFFENCES AND PUNISHMENT.

باب (۵)

جرائم کی تحقیقات اور سزا۔

31. Punishment for contravention of Sections 8,9,10,10-A(1),11 or12.

۳۲۔ شراب وغیرہ میں دھوکہ وغیرہ دینا۔

32. Cheating in respect of liquor etc.

۳۳ شخص اجازت یافتہ کی ذمہ داری اور اس کی سزا۔

33. Responsibility of licensee and punishment therefor.

34. Punishment for possession of illicit liquor.

34-A. Punishment for rendering or attempting to render denatured spirit fit for human consumption.

35. Punishment of officers acting in contravention of this Act.

36. Punishment for abetment of offences against the Act.

37. Penalty for Abkari Officer leaving his duty without notice.

37-A. Punishment for offences not otherwise provided for in the Act or Rules.

38. Presumption as to commission of offences in certain cases.

39. Order in respect of articles.

۳۹ مال کے متعلق حکم ۔

40. Procedure for trials.

41. Bar of action.

۴۱ نالش کی ممانعت ۔

41-A. Power to compound offences.

۴۱ (الف) مصالحت کا اختیار ۔

(Translation)

CHAPTER VI.

MISCELLANEOUS.

(۶) باب متفرق۔

42. Duties of licensee.

۴۲ اجازت یافتہ کے فرائض۔

43. Procedure for collection of Abkari arrears due to lessees.

44. Effect of provision of this Act on lease containing any condition contrary to intention of this Act.

۴۴ جس قول میں منشاء قانون ہذا کے خلاف کوئی شرط درج ہو اس پر قانون ہذا کے حکم کا اثر۔

45. Appeal and revision.

۴۵ مرافعہ و نگرانی۔

(Translation)

THE HYDERABAD ABKARI ACT.

No. I of 1316 Fasli.

(Received the assent of the Madar-ul-Moham on 12th Bahman, 1316 Fasli.)

Preamble. Whereas it is expedient to make a comprehensive law relating to Abkari ; It is here by enacted as follows :—

CHAPTER I.

PRELIMINARY AND DEFINITIONS.

Short title, extent and commencement. 1. This *Act may be called "The Abkari Act "; and it shall come into force in His Highness the Nizam 's Dominions on the first day of Khurdad, 1316 F.

*Published in the Jarida dated 28th Behman , 1316 F.

قانون آبکاری ممالک محروسہ سرکار عالی

نشان (۱) ۱۳۱۶ف

(مدار المہام سرکار عالی نے بتاریخ ۱۲ بہمن ۱۳۱۶ف منظور فرمایا۔)

تمہید۔ ہر گاہ قرین مصلحت ہے کہ آبکاری کے متعلق ایک مکمل قانون نافذ کیا جائے۔ لہذا حسب ذیل حکم ہوتا ہے :—

باب (۱)

مراتب ابتدائی و تعریفات۔

مختصر نام۔ وسعت مقامی و تاریخ نفاذ۔ دفعہ ۱۔ یہ قانون بنام "قانون آبکاری" موسوم ہو سکے گا اور ممالک محروسہ سرکار عالی میں یکم خرداد ۱۳۱۶ف سے نافذ ہوگا۔

*جریدہ اعلامیہ مورخہ ۲۸ بہمن ۱۳۱۶ف میں شائع ہوا۔

2. In this Act, unless there is anything repugnant in the subject or context :-

Definitions.

*[(1) "Abkari revenue" means revenue derived or derivable from any duty, fee, tax, fine or confiscation imposed or ordered under the provisions of this Act, or of any other law for the time being in force relating to liquor.]

Abkari revenue.

**(2) "Abkari Officer" means the Commissioner of Abkai, a *Collector of a district or any other officer or such person as may have been appointed for the purposes of this Act under section 3 or vested with any power.

Abkari officer.

*[(2-A) "Excise Commissioner" means the officer appointed by Government as such under sub-clause (a) of clause (1) of section 3.

Excise commissioner.

*(3) "Collector" means a Collector of land revenue or any person appointed under section 3 to exercise all the powers and to perform all the duties of a Collector under this Act.]

Collector.

**As amended by Act No. I of 1343 Fasli
*As amended by Act No. XXIII of 1953.

*As substituted by Act No. XXIII of 1953.

(4) " Criminal Court " means the Court having criminal jurisdiction not lower than that of a Second Class Magistrate ; but it also includes a Magistrate of the Third Class specially empowered to hear Abkari cases ;

Criminal Court.

عدالت فوجداری ۔] (۴) "عدالت فوجداری" سے وہ عدالت مراد ہے جس کے اقتدارات فوجداری درجہ دوم سے کم نہ ہوں لیکن اس میں ایسا ناظم فوجداری درجہ سوم بھی داخل ہے جس کو خاص طور پر مقدمات آبکاری کی سماعت کا اختیار عطا کیا گیا ہو ۔

*[(5) " Sendhi " means fermented juice drawn from a cocoanut, palmyra, date or any other kind of palm tree, and includes the unfermented juice drawn from the said trees.

Sendhi.

*(5-A.) " Spirits " means any liquor containing alcohol and obtained by distillation, whether it is denatured or not.

Spirits.

*As substituted by Act No. XXIII of 1953.

Explanation :- 'Denatured' means subjected to a process prescribed by the State Government by notification in the Jarida for the purpose of rendering unfit for human consumption.]

(6)" Liquor" includes every kind of juice, natural or manufactured, which contains alcohol;

Liquor.

شراب ۔ (۶) "شراب" میں ہر قسم کا عرق خواہ قدرتی ہو یا مصنوعی داخل ہے جس میں الکحل موجود ہو۔

(7) "Distilled liquor" means the liquor which contains alcohol and has been manufactured by means of any apparatus;

Distilled liquor.

شراب مقطر ۔ (۷) "شراب مقطر" سے وہ شراب مراد ہے جس میں الکحل شریک ہو اور جو کسی آلہ کے ذریعہ سے بنالی جائے۔

(8) "Fermented liquor" means the liquor manufactured in any manner other than that;

Fermented liquor.

شراب مخمر ۔ (۸) "شراب مخمر" سے وہ شراب مراد ہے جو سوائے اس کے کسی اور طریقہ سے بنائی جائے۔

*[(9) "Country liquor" means any liquor manufactured in any part of India other than the Hyderabad State either by indigenous methods or after the manner of foreign liquors.

Country liquor.

*(9-A.) "State liquor" means liquor manufactured in the Hyderabad State either by indigenous methods or after the manner of foreign liquor.]

State liquor.

* As substituted by Act No. XXIII of 1953 F.

(*Translation*)

(10) *[Omitted].

European liquor.

*[(11) "Foreign liquor" means all liquor other than Country liquor or State liquor :

Foreign liquor.

Provided that in any case in which doubt may arise, the Government, may declare by notification in the Jarida what liquor for the purposes of this Act shall be deemed to be 'State Liquor' or 'Country Liquor' and what 'Foreign Liquor';]

(12) †[Omitted]

Intoxicating drugs:

* Omitted by Act No. XXIII of 1953.
† Omitted by Act No. IV of 1333 F.

* As substituted by Act No. XXIII of 1953 F.

شراب ولایتی - (۱۰) - حذف[1]

اشیاء منشی - (۱۲) - حذف[2]

[1] ترمیم بموجب قانون نشان ۲۳ بابتہ ۱۹۵۳ء

[2] ترمیم بموجب ضمیمہ قانون نشان (۴) ۱۳۳۳ف۔

*[(13) "import" means to bring into the Hyderabad State from any place outside it;]

Import.

*[(14) "export" means to take out of the Hyderabad State ;]

Export.

*[(15) "transport" means to move from one place to another within the Hyderabad State ;]

Transport.

*[(16) "manufacture" includes every process, whether natural or artificial, by which any fermented, spirituous or intoxicating liquor is produced, prepared or blended and also redistillation and every process for the rectification of liquor;]

Manufacture.

*As substituted by Act No. XXIII of 1953.

*[(17) "abkari tree" includes the tree of gulmohwa, cocoanut, palmyra, date or any tree of the species of palmyra, the fermented or unfermented juice of which contains alcohol and from which toddy or liquor can be prepared.]

Abkari tree.

*As amended by Act No. 1 of 1343 Fasli.

درخت آبکاری ۔ [(۱۷) "درخت آبکاری" میں درخت گل مہوہ۔ ناریل۔ تاڑ۔ سیندھی یا درخت تاڑ کا کوئی ہم جنس درخت بھی داخل ہوگا جس کے مخمر یا غیر مخمر عرق میں الکحل ہو اور جس سے تاڑی یا شراب تیار کی جا سکتی ہو۔]

*[(18) "bottle" means to transfer liquor from a cask or other vessel to a bottle, jar, flask or similar receptacle for the purpose of sale whether any process of manufacture be employed or not includes rebottling ;]

Bottle.

*[(19) "rectification" includes every process whereby spirits are purified or are coloured or flavoured by mixing any materials therewith ;]

Rectification.

*As substituted by Act No. XXIII of 1953.

(Translation)

*[(20) "place" includes also a house, building, shop, tent and vessel ;]

Place.

*[(21) "materials" include Mohwa flowers, Molasses, Jaggery and such other materials as the Government may notify in the Jarida from time to time;]

Materials.

*[(22) "prescribed" means prescribed by rules made under this Act;]

Prescribed.

*[(23) "sale or selling" includes any transfer otherwise than by way of gift ;]

Sale or Selling.

*As Substituted by Act No. XXIII of 1953.

CHAPTER II.

POWERS OF *[GOVERNMENT.]

3. For the purposes of this Act and the administration of Abkari, the *[Government] may —

(1) (a) appoint an officer to be called the Commissioner of Abkari who shall, under the control and subject to the orders, of the Government, be deemed to be the Chief Officer for all matters pertaining to the Abkari revenue and may exercise all powers under this Act or such other powers as are conferred on the Commissioner of Abkari by virtue of any other law and he shall, in like manner, discharge all the duties entrusted to him and in so far as it is not contrary to the intention and purposes of this Act shall have such powers of inspection and control of the work of, issuing instructions to, and hearing appeal against the orders of his subordinate officers, as may from time to time be conferred by the Government. So many Assistants shall be appointed under the Commissioner of Abkari as may be

*As amended by Act No. I of 1343 Fasli.

باب (۲)

اختیارات سرکار عالی

سرکار عالی کے اختیارات ۔ | دفعہ ۳ ۔ [سرکار عالی] کو اختیار ہوگا کہ باغراض قانون ہذا و انتظام آبکاری ۔

(۱) (الف) ۔ ایک عہدہ دار کا تقرر کرے جس کا لقب ناظم آبکاری ہوگا اور جو زیر نگرانی و بمتابعت احکام سرکار عالی جملہ امور متعلقہ محاصل آبکاری کے لئے اعلیٰ حاکم متصور ہوگا اور وہ جملہ اقتدارات تحت قانون ہذا یا ایسے دوسرے اختیارات جو کسی اور قانون کی رو سے ناظم آبکاری کو عطا کئے گئے ہوں استعمال کر سکے گا اور اسی طرح جملہ فرائض مفوضہ بھی انجام دے گا اور جس حد تک کہ مقاصد و اغراض قانون کے خلاف نہ ہو اُس کو اپنے ماتحت عہدہ داروں کے کام کی تنقیح و نگرانی اور اُن کو

[1] ۔ ترمیم بموجب قانون نشان (۱) سنہ ۱۳۴۳ف

sanctioned, from time to time, by the Government and the appointment of every such Assistant shall also be made with the sanction of the Government and he shall be entrusted with all such duties as Commissioner of Abkari may assign to him from time to time;

ہدایت دینے اور اُن کے احکام کی ناراضی سے مرافعہ کی سماعت کے ایسے اختیارات حاصل رہیں گے جو سرکار عالی وقتاً فوقتاً عطا کرے۔ ناظم آبکاری کے تحت اس تعداد میں مددگاران مامور ہونگے جس کی منظوری سرکار عالی سے وقتاً فوقتاً دی جائے اور ہر ایسے مددگار کا تقرر بھی بمنظوری سرکار عالی عمل میں آئے گا اور اس کے تفویض وہ تمام فرائض ہوں گے جو وقتاً فوقتاً ناظم آبکاری اُس سے متعلق کرے۔

(b) appoint, besides the District *[Collector], any other person also for the purpose of exercising wholly or partly, in any district or part of a district, all those powers and in like manner discharge wholly or partly the assigned duties which have been under this Act prescribed for the *[Collector;]

(ب)۔ علاوہ *(COLLECTOR) ضلع کے کسی اور شخص کو بھی اس غرض سے مامور کرے کہ وہ کسی ضلع یا حصہ ضلع میں وہ تمام اختیارات کلاً یا جزاً استعمال کرے اور اسی طرح فرائض مفوضہ بھی کلاً یا جزاً انجام دے جو تحت قانون ہذا *(COLLECTOR) کے لئے مقرر کئے گئے ہوں۔

Provided that the discharge of duties and exercise of powers as aforesaid shall, besides being in accordance with the instructions of the Commissioner of

مگر شرط یہ ہے کہ حسب صراحت بالا فرائض کی ادائی اور اختیارات کا استعمال ناظم آبکاری کی ہدایت کے علاوہ سرکار عالی کے اُن

*As substituted by Act No. XXIII of 1953.

*As substituted by Act No. XXIII of 1953.

(Translation)

Abkari, be subject to the orders of the Government also which may be issued from time to time by the Government ;

احکام کے بھی تابع رہے گا جو سرکار عالی سے وقتاً فوقتاً صادر کئے جائیں۔

(c) appoint, in their discretion, for the assistance of the*[Collectors,] officers subordinate to them and prescribe their designation, powers and duties ;

(ج)۔(COLLECTORS)* کی امداد کیلئے ان کے ماتحت حسب صوابدید عہدیداروں کو مامور اور اُن کے لقب و اختیارات و فرائض کا تعین کرے۔

(d) delegate to any Government servant in any department or to any other person in his personal or *ex-officio* capacity the powers and duties under this Act which he shall discharge in addition to the powers and duties of his substantive post.

(د) کسی محکمہ کے کسی ملازم سرکاری یا کسی دوسرے شخص کو تحت قانون ہذا بحیثیت شخصی یا بلحاظ عہدہ اختیارات اور فرائض تفویض کرے جو وہ اپنے اصلی عہدہ کے فرائض و اختیارات کے علاوہ انجام دے گا۔

Provided that the powers provided for in section 18 shall not be delegated to a servant in any department whose rank is not superior to a peon or a constable and that the powers and duties so dele-

مگر شرط یہ ہے کہ اختیارات مذکورہ دفعہ ۱۸ کسی سررشتہ کے کسی ایسے ملازم کے تفویض نہ ہوسکیں گے جس کا درجہ چپراسی یا جوان سے بالاتر نہ ہو نیز جو اختیارات و فرائض اس طرح تفویض یا عطا کئے

*As substituted by Act No. XXIII of 1953.

*As substituted by Act No. XXIII of 1953.

gated or conferred may be revoked or modified at any time.

جائیں ہروقت منسوخ یا اُن میں ترمیم کی جاسکے گی۔]

(Translation)

*[(e) regulate, subject to such conditions as may be specified, the delegation by the Board of Revenue or by collectors of any powers, conferred by this Act or exercised in respect of Abkari revenue under any Act for the time being in force.]

* As substituted by Act No. XXIII of 1953.

(2) make by notification rules in respect of the following matters :—

(۲) اُمور ذیل کے متعلق بذریعہ اشتہار قواعد نافذ کریں :—

(a) determining the substances from which liquor will be drawn and prohibiting the use of noxious substances in the manufacture of liquor ;

(الف) تعین اُن اشیاء کا جن سے شراب نکالی جائے گی اور شراب بنانے میں مضر صحت اشیاء کے استعمال کی ممانعت ۔

(b) the mode in which sendhi will be supplied to licensed shopkeepers or to persons who have obtained licence to manufacture liquor from sendhi;

(ب) کس طریقہ سے اجازت یافتہ دکانداروں کو یا اُن اشخاص کو جنھوں نے سیندھی سے شراب بنانے کی اجازت حاصل کی ہو سیندھی کی سربراہی کی جائے گی ۔

(c) determining the number, description *[and form of licences for any particular place or area and determining the officers who shall have the power of imposing or cancelling such licences and the conditions subject to which the licences shall be granted;]

(ج) کسی خاص مقام یا رقبہ زمین کے لئے اجازت ناموں کی تعداد اور اُن کے اقسام کا تعین اور اُن کا نمونہ [اور اُن عہدہ داروں کا تعین جن کو ایسے اجازت نامے جاری یا منسوخ کرنے کا اختیار حاصل رہے گا اور شرائط جن کے تحت اجازت نامے عطا کئے جائیں گے ۔]

(d) regulating the description and quantity and number of apparatus to be kept in a distillery ;

(د) تعین اُن آلات کے اقسام اور مقدار اور تعداد کا جو بھٹی میں رکھے جائیں گے ۔

*As amended by Act No. I of 1343 F.

* ترمیم بموجب قانون نشان (۱) ۱۳۴۳ف

(e) prescribing the instruments to be used in the testing of liquor and the mode of examining the strength of liquor;

(ھ) ۔ تعین اُن آلات کا جو شراب کی آزمایش کے لئے استعمال کئے جائیں گے اور طاقت شراب کی تنقیح کا طریقہ ۔

(f) prescribing the measures to be used for the sale of liquor;

(و) ۔ تعین اُن پیمانوں کا جو فروخت شراب کے لئے استعمال کئے جائیں گے ۔

*[(g) providing for the storage, import, export, transport or possession of liquor and Mohwa flowers or the manufacture of liquor;

*(h) providing for the management and supervision of stills, breweries, liquor shops godowns, distilleries and warehouses;

*As substituted by Act No. XXIII of 1953.

*(i) prescribing the mode of conducting searches and the form of the bail-bond and surety bond;]

(j) determining the amount of security for contravention of this Act, and the officer competent to take the security;

(ی) خلاف ورزی قانون ہذا کے لئے ضمانت کی مقدار اور عہدہ دار مجاز اخذ ضمانت کا تعین ۔

(k) the confiscation and sale of articles;

(ے) ۔ اشیاء کی ضبطی اور فروخت ۔

*[(l) prescribing the powers and duties of Excise Officers ;

*(m) (1) declaring the process by which spirit manufactured in or imported into Hyderabad State shall be denatured ;

(2) for causing such spirits to be denatured through the agency or under the supervision of the Excise Officers;

(3) for ascertaining whether such spirit has been denatured properly;

*(n) regulating the bottling of liquor for sale;

*As substituted by Act No. XXIII of 1953.

*(o) declaring in what cases or class of cases and to what authorities appeals shall lie from orders whether original or appellate, passed under this Act or under any rule made thereunder, or by what authorities such orders may be reviewed or revised, and prescribing the time and manner of presenting appeals, review and revision petitions and the procedure for dealing therewith;

*(p) regulating the collection and disbursement of owner's fee in respect of Abkari trees;

*(q) for rewarding informers and other persons including Abkari Officers in connection with the detection of offences under this Act; and

*(r) for any other matter which may be prescribed under this Act;

*As substituted by Act No. XXIII of 1953.

(s) relating to any other matter for the purposes of this Act.

†[3. (A) Subject to orders of the Government made from time to time in this behalf, the Commissioner of Abkari shall also have the same powers to confer powers on, or entrust duties to any Government servant in any department or any other person under this Act which the Government have under section 3 clause (1) (d). And the Commissioner of Abkari may with the sanction of the Government delegate wholly or partially the powers vested in him under this section to any *[Collector] or more than one *[Collector] and may after delegation, revoke them at any time:

Power of Commissioner of Abkari.

Provided that in case of emergency the Commissioner of Abkari may delegate powers in anticipation of the Government sanction.]

†As amended by Act No. I ot 1343 Fasli.
*As amended by Act No. XXIII of 1953.

(S) قانون ہذا کے اغراض کے لئے اور کسی امر کی نسبت ۔

اختیارات ناظم آبکاری ۔ [دفعہ ۳ ۔ (الف) ۔ بہ متابعت احکام سرکار عالی جو اس بارہ میں وقتاً فوقتاً صادر کئے جائیں ناظم آبکاری کو بھی کسی محکمہ کے کسی ملازم سرکاری یا کسی دوسرے شخص کو تحت قانون ہذا اختیارات عطا کرنے یا فرایض تفویض کرنے کے متعلق وہ اختیارات حاصل ہوں گے جو بروئے دفعہ ۳ فقرہ (۱) (د) سرکار عالی کو حاصل ہیں اور ناظم آبکاری کو اختیار ہوگا کہ دفعہ ہذا کے تحت جو اختیارات اُس کو حاصل ہیں اُن کو بہ منظوری سرکار عالی کلاً یا جزاً کسی *COLLECTOR یا ایک سے زائد *COLLECTOR کے تفویض کرے اور بعد تفویضگی کسی وقت بھی اُن کو واپس لے ۔

مگر شرط یہ ہے کہ شدید ضرورت کی صورت میں ناظم آبکاری بہ اُمید منظوری سرکار عالی اختیارات تفویض کر سکے گا ۔]

*As amended by Act No. XXIII of 1953.

ے ۔ ترمیم بموجب قانون نشان (۱) سنہ ۱۳۴۳ف

4. Subject to such conditions as may deem fit, the*[Government] may grant, for a fixed period to any person at any place,

Power to grant lease.

تعہد دینے کا اختیار۔ دفعہ ۴۔ [سرکار عالی][1] کو اختیار رہوگا کہ ایسے شرائط پر جو مناسب معلوم ہوں مدت معین کے لئے کسی شخص کو کسی مقام میں۔

(1) a lease jointly or severally for the supply, manufacture or sale of any inebriating or intoxicating drug or mohwa flower.

(۱) کسی مسکر یا منشی شئے یا گل مہوہ کی فراہمی تیاری یا فروخت کا بالاشتراک یا بالانفراد تعہد دیں۔

Explanation:- A lease shall not take effect untill the**[Collector] or any other competent officer has issued a licence *[in the prescribed form.]

توضیح۔ تعہد کا نفاذ اس وقت تک نہ ہوگا جب تک کہ (COLLECTOR)* یا کوئی اور عہدہ دار مجاز [مقررہ نمونہ کے بموجب][1] اجازت نامہ نہ دے۔

(2) The *[Government] may confer on any officer the power mentioned in sub-section (1).

(۲) اختیار متذکرہ ضمن (۱) [سرکار عالی][1] کسی عہدہ دار کو عطا کر سکیں گے۔

*As amended by Act No. I of 1343 F.
**As substituted by Act No. XXIII of 1953.

[1] ترمیم بموجب قانون نشان (۱) سنہ ۱۹۴۳ء
*As substituted by Act No. XXIII of 1953.

*[4-A. The Excise Commissioner may with the previous sanction of the Government,

Establishment of distilleries and warehouses.

(a) establish a public distillery in which any kind of liquor may be manufactured under a licence granted under section 15 on such conditions as the Government deems fit to impose;

*As substituted by Act No. XXIII of 1953.

(b) discontinue any public distillery so established;

(c) license at or in connection with any licensed distillery or elsewhere a private warehouse wherein liquor may be deposited and kept without payment of duty;

*(d) establish a public warehouse wherein liquor may be deposited and kept without payment of duty; and

*(e) discontinue any public warehouse so established.

Explanation:- Public warehouse shall be for the general accommodation of persons desiring to warehouse liquor subject to duty pending removal for local consumption or for export.

*As substituted by Act No. XXIII of 1953.

*4-B. The Government may, by notification in the Jarida and subject to such conditions as it may think fit to prescribe, exempt any liquor or gulmohwa either wholly or partially from all or any provisions of this Act either generally or in any specified area or for any specified period or occasion or as regards any specified person or class of persons.]

Power of Government to exempt any articles or any area from the operation of this Act.

* As substituted by Act No. XXIII of 1953.

(Translation)

5. The *[Government] may fix duty in the following cases :–

Power to fix duty.

محصول مقرر کرنے کا اختیار۔ دفعہ ۵۔ [سرکار عالی] کو اختیار ہوگا کہ صورت ہائے ذیل کے لئے محصول مقرر کریں :–

(1) import and export under section 8;

(1) درآمد و برآمد حسب دفعہ ۸۔

(2) transport under section 9;

(2) نقل و ارسال حسب دفعہ ۹۔

(3) matters mentioned in section 10;

(3) امور مندرجہ دفعہ ۱۰۔

(4) sale under section 12.

(4) فروخت حسب دفعہ ۱۲۔

*As amended by Act No. 1 of 1343 F.

* ترمیم بموجب قانون نشان (۱) سنہ ۱۳۴۳ف

*[6. Where a contract for selling sendhi at a particular place and for a specified time is granted under section 4 to any person, Government, may, by notification in the Jarida, declare that such a grantee shall be competent to issue licence for transport of sendhi in such quantity and subject to such conditions and restrictions as may be prescribed by the Government in this behalf, and a licence so issued shall have the same effect as that granted by the Collector or any lawful authority under section 15.

Licensee may issue permits for transport.

*As substituted by Act No. XXIII of 1953.

Procedure for the recovery of Excise dues and connected dues.

*7. (1) All duties, taxes, fines, fees and other moneys payable to Government under any of the provisions of this Act or of any licence or permit issued under it, and all amounts due to Government by any grantee of a privilege or by any licensee under this Act or by any person on account of any contract relating to the excise revenue may be recovered from the lessee or his surety or every such person who may have occupied the business relating to such lease to the extent of the amount due from him to the lessee in respect of the period of occupation of such person, as if they were arrears of land revenue.

*As substituted by Act No. XXIII of 1953.

(2) In case of default of payment of Abkari revenue by the lessee, the Government may also proceed to make its own arrangements or resell by cancelling the existing lease of such defaulter and recover the loss in revenue in the manner prescribed in sub-section (1).]

CHAPTER III.

IMPORT, EXPORT, TRANSPORT, POSSESSION, MANUFACTURE AND SALE.

باب ۳

درآمد، برآمد، نقل و ارسال، قبضہ، ساخت و فروخت

Prohibition of import and export of liquor or mohwa flowers.

شراب یا گل مہوہ کے درآمد و برآمد کی ممانعت۔

*[8. No person shall import or export any liquor, sendhi or mohwa flowers without the permission of Government or of any competent officer or without payment of duty leviable thereon.]

*As substituted by Act No. XXIII of 1953.

(Translation)

Prohibition of transport of liquor or mohwa flowers.

†[9. No person shall transport any liquor sendhi mohwa flowers in excess of the quantity fixed by Government or by any competent authority without obtaining a licence therefor under section 15.]

Matters prohibited without obtaining licence.

10. No person shall without obtaining a licence mentioned in section 15.

(I) *[manufacture liquor ;] or

(II) collect substances from which liquor is manufactured ; or

(III) keep a brewery of distilled liquor or a distillery of fermented liquor ; or

(IV) establish a warehouse of the intoxicating drugs or mohwa flowers ; or

(V) tap †[Abkari tree] or draw sendhi therefrom ; or

*As amended by Act No. IV of 1333 F.

†As substituted by Act No. XIV of 1955.

شراب یا گل مہوہ کے نقل و ارسال کی ممانعت ۔

دفعہ ۹ ۔ کوئی شخص مجاز نہ ہوگا کہ بلا حصول اجازت نامہ متذکرۂ دفعہ ۱۵ ۔

بلا حصول اجازت نامہ کن امور کی ممانعت ہے

(۱) [شراب تیار کرے] ۔ یا

(۲) ایسے اشیاء جن سے شراب بنائی جاتی ہو جمع کرے ۔ یا

(۳) شراب مقطر کی بھٹی یا شراب مخمر کا کارخانہ رکھے ۔ یا

(۴) اشیاء منشی یا گل مہوہ کا کوٹھ قائم کرے ۔ یا

(۵) [ABKARI TREE] کو تراشے یا

۱ ۔ ترمیم بموجب ضمیمہ قانون نشان (۴) ۱۳۳۳ ف

†As substituted by Act No. XXIII of 1953.
* As substituted by Act No. XIV of 1955.

(Translation)

*[(VI) keep, or have in possession and use any materials, utensil, still, or implements and apparatus of whatsoever for the purpose of manufacturing or causing to manufacture thereby distilled liquor or intoxicating drugs :]

*Amended by Act No. I of 1343 Fasli.

اُس سے سیندھی نکالے۔ یا

[(۶)[1] کوئی اشیاء۔ برتن۔ بھٹی یا آلات و اسباب خواہ وہ کسی قسم کے ہوں اس غرض سے اپنے پاس یا اپنے قبضہ و استعمال میں رکھے کہ اس سے شراب مقطر یا اشیاء منشی تیار کرے یا کرائے۔]

*[Provided that the Government may, by notification in the Jarida, direct that in any local area it shall not be necessary to take out licence for the manufacture of liquor for *bona fide* home consumption.]

[1] ۔ ترمیم بموجب قانون نشان (۱) سنہ ۱۳۴۳ف

*Substituted by Act No. XXIII of 1953.

Prohibition of cutting down or destroying Govt. Abkari tree.

*[10-A. (1) No person shall, without the permission of a Collector or such officer as may have been empowered by the Government in this behalf, cut down or destroy any Government Abkari tree. Such permission may be given subject to the conditions and on payment of a fee prescribed from time to time by the Government.]

سرکاری درخت آبکاری کو کاٹنے یا تلف کرنے کی ممانعت

دفعہ ۱۰۔ [۱] کوئی شخص مجاز نہ ہوگا کہ متعلقہ کلکٹر یا کسی ایسے عہدہ دار کی اجازت کے بغیر جس کو سرکار عالی نے اس بارہ میں اختیار عطا کیا ہو کسی سرکاری درخت آبکاری کو کاٹے یا تلف کرے۔ اجازت مذکور ان شرائط کے ساتھ اور اُس قدر فیس کی ادائی کے بعد دی جاسکے گی جو سرکار عالی وقتاً فوقتاً معین کرے۔]

*[(2) In regard to cutting down or destroying Abkari trees other than those owned by Government the provision contained in section 46-A of the Land Revenue Act (No. VIII of 1317 F.) shall apply.]

* Amended by Act No. I of 1343 Fasli.

* ترمیم بموجب قانون نشان (۱) ۱۳۴۳ف

*Substituted by Act No. XXIII of 1953.

*[11. Subject to such exceptions as may, from time to time, be notified by Government in the Jarida either for the whole State or any part thereof, no person shall be entitled to keep in his possession any quantity of liquor or sendhi without obtaining a licence mentioned in section 15.]

Prohibition of keeping liquor, etc., in possession.

* Substituted by Act No. XXIII of 1953.

Prohibition to sell liquor, etc.

12. No person shall be entitled to sell any kind of liquor, sendhi or mohwa flowers without obtaining a licence mentioned in section 15.

شراب وغیرہ فروخت کرنے کی ممانعت۔

دفعہ ۱۲۔ کوئی شخص مجاز نہ ہوگا کہ بلا حصول اجازت نامہ متذکرہ دفعہ ۱۵ کسی قسم کی شراب یا سیندھی یا مہوا شئے یا گلہوہ فروخت کرے۔

Mode of recovering duty.

13. Duty shall be assessed and recovered in the following manner :—

(a) on liquor, according to its quantity or strength, before it goes out from the brewery, distillery or warehouse;

محصول وصول کرنے کا طریقہ۔

دفعہ ۱۳۔ محصول بطریق ذیل مشخص و وصول کیا جائے گا :۔

(الف) شراب پر بلحاظ اُس کی مقدار یا طاقت کے بھٹی یا کارخانہ یا کوٹھ کے باہر جانے سے پہلے

(*Translation*)

*[(b) on sendhi by a tax on each tree from which sendhi is drawn to be paid in a lumpsum or in such instalments and for such period as may be prescribed, or according to its quantity before it is imported, exported or transported;]

(c) on mohwa flower, according to its quantity, before the importation and exportation or transportation ;

(ج) گل مہوہ پر اس کی مقدار کے لحاظ سے درآمد و برآمد یا نقل و ارسال سے پہلے۔

(d) on intoxicating drugs, according to their kinds or quantity, before importation and exportation or transportation ;

(د) اشیاء منشی پر اُن کی اقسام یا مقدار کے لحاظ سے درآمد و برآمد یا نقل و ارسال سے پہلے۔

(e) in respect of licence for manufacture, sale, or on any other permit mentioned in this Act, in accordance with the rules made under section 3, before the grant of the licence or by instalments ;

(ہ) اجازت نامہ ساخت ۔ فروخت یا کسی اور اجازت نامہ متذکرہ قانون ہذا کی بابت بموجب اُن قواعد کے جو حسب دفعہ ۳ مرتب کئے جائیں عطائے اجازت نامہ سے پہلے یا باقساط۔

*Substituted by Act No. XXIII of 1953

(f) in respect of Abkari lease, according to the agreement arrived at between the lessee and the *[Government;]

(g) in any other manner prescribed in accordance with the rules made under section 3.

* Amended by Act No. 1 of 1343 Fasli.

(ف) تعہد آبکاری کی بابت بموجب اُس قرارداد کے جو مابین تعہد دار اور [سرکار عالی] کے عمل میں آئے۔

(ز) کسی اور طریقہ کے مطابق جو بموجب قواعد مرتبہ دفعہ ۳ مقرر کیا جائے۔

ـــــ ترمیم بموجب قانون نشان (۱) ۱۳۴۳ف

*[13-A. When sendhi yielding Abkari trees are tapped without licence, the tax due shall be recoverable where practicable from the tapper or if it cannot be so recovered, from the occupier, if any, of the land or if the trees do not belong to the occupier of the land or if the land is not occupied, from the person, if any, who owns or is in possession of the trees unless he proves that the trees were tapped without his knowledge.

Tax for tapping unlicensed trees from whom leviable.

*Substituted by Act No. XXIII of 1953.

Tapping of trees situated on patta lands and payment of owner's fee thereof.

*13-B. (1) The owner or any person entitled to the proprietory rights over trees yielding sendhi shall not interfere in the tapping of such trees unless he shall have expressed in writing to the Collector or any other officer empowered in this behalf within the period prescribed and notified by the Excise Commissioner to the effect that he is unwilling to have such trees tapped.

*Substituted by Act No. XXIII of 1953 F.

*(2) The owner's fee in respect of trees tapped shall be deposited in the Government Treasury and paid to the owner or any other person entitled to it in the manner as may be prescribed and notified by Government.]

Lessee not to declare any person to be his partner.

*[14. No lessee shall, except with the permission of Government, declare any person to be his partner; and such partner shall not be competent to act as such until he has obtained a licence to that effect from the Collector or any other competent officer.]

* Substituted by Act No. XXIII of 1953.

(*Translation*)

CHAPTER IV.

POWERS AND DUTIES OF OFFICERS.

Powers of *[Collector]

15. (1) The * [Collector] or the other officer so empowered by the Government may grant a licence mentioned in this Act–

(*i*) on payment of such duty or fee,

(ii) for such period,

(iii) subject to such conditions and containing such particulars, as the †[Government] may prescribe.

*Substituted by Act No. XXIII of 1953.
† Amended by Act No. I of 1343 F.

باب ۴

اختیارات و فرائض عہدہ داران۔

*[COLLECTOR] کے اختیارات۔ ا دفعہ ۱۵۔ (۱)

اجازت نامہ متذکرۂ قانون ہذا ۔

(۱) اس محصول یا فیس کی ادائی کے بعد ۔

(۲) اُس مدت کے لئے ۔

(۳) اُن شرائط کے ساتھ اور یہ اندراج

اُن امور کے جو [سرکار عالی][1] مقرر کریں ۔

*[COLLECTOR] یا وہ عہدہ دار جس کو

[سرکار عالی][1] نے ایسا اختیار عطا کیا ہو رے سکیگا۔

*Substituted by Act No. XXIII of 1953.

[1] ۔ ترمیم بموجب قانون نشان (۱) ۱۳۴۳ف

* [(2) The person to whom a licence under sub-section (1) has been granted shall be required to execute a counter-part agreement in conformity with the tenor of his licence and to give such security for the performance of the agreement as the issuing authority may require.]

* Substituted by Act No. XXIII of 1953.

* [(3) If Government are satisfied that it is necessary or expedient that restrictions should be imposed on the amount of any article, supplied for sale, to a person licensed under this Act to sell such article, Government may by notification in the Jarida impose such restrictions, and notwithstanding anything contained in the agreement under which such person holds his licence, such person shall not be entitled to compensation by reason of the imposition of the restrictions.]

*Substituted by Act No. XV of 1950

When licence be suspended or cancelled.

16. A licence may be suspended or cancelled by order of a †[Collector] or *[any other competent officer] in the following cases:—

اجازت نامہ کب معطل یا منسوخ ہو سکے گا۔

دفعہ ۱۶۔ اجازت نامہ *[یا کسی †[COLLECTOR] دوسرے عہدہ دار مجاز] کے حکم سے مندرجہ ذیل صورتوں میں معطل یا منسوخ ہو سکے گا۔

†Substituted by Act No. XXIII of 1953.

*Amended by Act No 1 of 1343F.

*۔ ترمیم بموجب قانون نشان (۱) ۱۳۴۳ف

(*Translation*)

(1) If any prescribed fee or duty duly payable by the licensee is not paid;

(2) If the person who got the licence or his servant or any person acting with his permission, express or implied, contravenes the conditions of the licence;

†[(3) If the licensee is convicted of any offence agaist this Act or of any of the offences under the Indian Penal Code, relating to property, coinage and stamps, or of any other cognizable and non- bailable offence;]

† Substituted by Act No. XXIII of 1953.

(۱) اگر کوئی فیس یا محصول مقررہ جس کا دیا جانا اجازت یافتہ پر واجب ہو ادا نہ کیا جائے ۔

(۲) اگر وہ شخص جس کو اجازت نامہ ملا ہو یا اس کا ملازم یا کوئی ایسا شخص جو اس کی صریح یا معنوی اجازت سے کام کرتا ہو شرائط اجازت نامہ کی خلاف ورزی کرے ۔

(4) If a lessee of the Abkari applies for the suspension or cancellation of the licence secured by him for any person.

(۴) اگر کوئی متعہد دار آبکاری اس اجازت نامہ کی نسبت جو اُس نے کسی شخص کو دلایا ہو تعطل یا تنسیخ کی درخواست کرے۔

(5) If the suspension or cancellation of a licence is discretionary according to the conditions thereof.

(۵) اگر حسب شرائط اجازت نامہ اُس کا تعطل یا تنسیخ اختیاری ہو۔

Criminal Court may give order, for search.

17. When a Criminal Court, upon information from an Abkari or Police employee, or from any other person, has, after making necessary inquiries, reason to believe that any offence mentioned in section 31, 32 or 34 has been committed, it may, after recording the sworn statement of the informant, issue an order for the search of any article relating to the said offence.

عدالت فوجداری تلاشی کا حکم دے سکے گی۔

دفعہ ۱۷۔ اگر کسی ملازم آبکاری یا کوتوالی یا کسی اور شخص کی اطلاع پر اور بعد تحقیقات ضروری کسی عدالت فوجداری کو یہ باور کرنے کی وجہ ہو کہ کسی جرم متذکرہ دفعہ ۳۱ یا ۳۲ یا ۳۴ کا ارتکاب ہوا ہے تو وہ مخبر کا حلفی بیان قلم بند کر کے کسی شئے متعلقہ جرم مذکور کی تلاشی کا حکم دے سکے گی۔

(Translation)

Power to make search without search-warrant.

18. *[If the Commissioner of Abkari or the †[Collector] or any Abkari Officer not below the rank of a Sub-Inspector, or a Police officer, not below the rank of a Police Station-house officer] has reason to believe that it is likely that there would be undue delay and the case would be spoiled in obtaining a search-warrant under the preceding section may after recording the grounds of his belief at any suitable time by day or night, search any place or person, and may seize the article which he believes to be liable to confiscation under this Act, and release the person strongly suspected of having committed the said offence on producing a bond with or without sureties for appearance before a Court or competent officer.

Power of arrest.

19. If an Abkari, Police, Revenue or Customs officer or a licensee finds any person committing, in any public thoroughfare or open place, any offence mentioned in section

*Amended by Act No. I of 1343 Fasli.

† Substituted by Act No. XXIII of 1953.

بلا حکمنامہ تلاشی تلاشی کا اختیار۔ **دفعہ ۱۸** [اگر ناظم آبکاری یا [COLLECTOR]* کو یا کسی ایسے عہدہ دار آبکاری کو جس کا درجہ سب انسپکٹر سے یا عہدہ دار کوتوالی کو جس کا درجہ منتظم ٹھانہ سے کم نہ ہو] یہ باور کرنے کی وجہ ہو کہ حسب دفعہ بالا حکم نامہ تلاشی حاصل کرنے میں نامناسب تاخیر اور مقدمہ کی خرابی کا اندیشہ ہے تو وہ اپنی رائے کے وجوہ قلم بند کر کے دن یا رات میں جس وقت مناسب ہو کسی مقام کی یا کسی شخص کے جسم کی تلاشی لے سکے گا اور جس شئے کو از روئے قانون ہذا قابل ضبطی باور کرے اس کو اپنے قبضہ میں لے سکے گا اور اُس شخص کو جس کی نسبت ارتکاب جرم مذکور کا گمان غالب ہو عدالت یا عہدہ دار مجاز کے روبرو حاضر ہونے کے لئے مچلکہ مع یا بلا ضمانت داخل کرنے پر رہا کر دے گا۔

گرفتاری کا اختیار۔ **دفعہ ۱۹**۔ اگر کوئی عہدہ دار آبکاری۔ کوتوالی۔ مالگذاری یا کروڑگیری یا کوئی

* Substituted by Act No. XXIII of 1953.

* ترمیم بموجب قانون نشان (۱) ۱۳۴۳ف

31, 32 and 34 he may, without obtaining a warrant of arrest, arrest him with the †[liquor,] or mohwa flowers in his possession at the time.

شخص اجازت یافتہ کسی عام گذرگاہ یا کھلے مقام پر کسی شخص کو کسی جرم متذکرۂ دفعات ۳۱ و ۳۲ و ۳۴ کا مرتکب پائے تو وہ اس کو بلا حصول حکمنامہ گرفتاری مع اس [شراب] یا گل مہوہ کے جو اُس وقت اس کے قبضہ میں ہو گرفتار کر سکے گا۔

He may for the purposes of this section search any person, distillery, vessel, apparatus or means of transport which he may strongly suspect to contain the said articles.

دفعہ ہذا کی اغراض کے لئے وہ مجاز ہوگا کہ کسی شخص کے جسم کی یا کسی بھٹی یا ظروف یا آلہ یا کسی ذریعہ بار برداری کی جس کی نسبت گمان غالب ہو کہ اُس میں اشیاء مذکور رکھی گئی ہیں تلاشی لے۔

Any person arrested under this section shall be released on his filing a bond, with or without security for appearance before a Court or competent officer.

ہر شخص جو حسب دفعہ ہذا گرفتار کیا جائے عدالت یا عہدہ دار مجاز کے روبرو حاضر ہونے کا مچلکہ مع یا بلا ضمانت داخل کرنے پر رہا کر دیا جائیگا۔

†Amended by Schedule to Act No. I of 1333F.

*[19-A. (1) Whenever an offence has been committed which is punishable under this Act, the excisable articles, material, still, utensil, implements or apparatus in respect of or by means of which such offence has been committed shall be liable to seizure.

Liability of certain things to seizure.

(2) Any excisable article lawfully imported, transported, manufactured, held in possession of or sold along with or in addition to any excisable article liable to seizure under sub-section (1) and the receptacle, packages and covering in which any such excisable articles, material, still, utensil, implements or apparatus as aforesaid is

*Added by Act No. XXIII of 1953.

or are found, and the other contents, if any, of the receptacle or packages in which the same is or are found, and the animals, carts, vessels, rafts, lorries or any other conveyances used in carrying the same, shall likewise be liable to seizure :

Provided that if the article seized is sendhi or wash which is liable to speedy and natural decay any Abkari officer not below the rank of a Sub-Inspector may dispose of the articles in the manner prescribed by rules made under clause (k) of sub-section (2) of section 3.]

Abkari officer may enter into place in occupation of licensee.

20. Any Abkari officer, not below the rank of a *[Sub-Inspector] may, for purpose of inspection, enter any place occupied by a licensee :—

دفعہ ۲۰۔ کوئی عہدہ دار آبکاری شخص اجازت یافتہ کے مقبوضہ مقام میں داخل ہوسکتا ہے۔ عہدہ دار آبکاری جو [۱] [سب انسپکٹر] کے درجہ سے کم نہ ہو مجاز ہوگا کہ بغرض تنقیح کسی شخص اجازت یافتہ کے کسی مقبوضہ مقام میں

(a) here †[liquor] is manufactured or sendhi is drawn or liquor or †[mohwa

(الف) ۔ جہاں [۲] [شراب] تیار کی جاتی ہوں یا سیندھی نکالی جاتی ہو یا شراب [گل مہوا] جمع کیے

*Amended by Act No. 1 of 1343 F.
†Amended by Schedule to Act No. IV of 1333 F.

۱ ۔ ترمیم بموجب قانون نشان (۱) ۱۳۴۳ف

۲ ۔ ترمیم بموجب ضمیمہ قانون نشان (۴) ۱۳۳۳ف

flowers] are stored at any time by day or night ;

(b) where the aforesaid articles are kept for sale at any time when it is ordinarily kept open.

Arrest in order to ascertain name of accused.

21. Where there is sufficient reason to believe that any person is guilty of any offence mentioned in this Act, and when he, on being questioned by an Abkari or Police officer, refuses to give his name and residence, or gives a false name and residence, he may be arrested in order that his true name and residence may be ascertained. If the name and residence of the person cannot be ascertained in twenty-four hours, he shall be produced in a Court of law.

Person or property to be produced before Collector.

22. The person arrested or goods seized under this Act shall, in case a security is not produced, be forwarded within twenty-four hours and without unnecessary delay, to

جانے ہوں رات یا دن میں کسی وقت داخل ہو۔

(ب)۔ جہاں اشیاء متذکرہ بالا فروخت کے لئے رکھے جاتے ہوں کسی ایسے وقت داخل ہو جو اُس کے کھلے رہنے کا معمولی وقت ہو۔

مجرم کا نام دریافت کرنے کی غرض سے گرفتاری۔

دفعہ ۲۱۔ اگر کسی شخص کو کسی جرم متذکرہ قانون ہذا کا مرتکب پایا کر کرنے کی معقول وجہ ہو اور کسی عہدہ دار آبکاری یا کوتوالی کے استفسار پر وہ اپنا نام اور سکونت بتانے سے انکار کرے یا غلط نام اور سکونت بتائے تو وہ گرفتار کیا جا سکے گا تاکہ اس کا صحیح نام اور سکونت دریافت کی جائے اگر ۲۴ گھنٹہ میں اس شخص کا نام اور سکونت نہ معلوم ہو سکے تو وہ عدالت میں پیش کر دیا جائے گا۔

شخص یا مال کا [*COLLECTOR] کے روبرو پیش ہونا۔

دفعہ ۲۲۔ جو شخص یا مال ازروئے

* Substituted by Act No. XXIII of 1953.

the *[Collector] or to the nearest competent officer together with the articles seized and statement of the search and arrest.

قانون ہذا گرفتار ہو وہ ضمانت نہ داخل ہونے کی صورت میں مع اشیاء گرفتار شدہ و کیفیت تلاش و گرفتاری ۲۴ گھنٹہ کے اندر بلا تاخیر غیر ضروری *[COLLECTOR] یا کسی عہدہ دار مجاز کے پاس جو قریب تر ہو بھیج دیا جائے گا۔

† [22-A. If in exercise of powers contained in sections 18 and 19, any officer arrests any person and also when any arrested person appears or is made to appear under section 22 before a *[Collector] or other competent officer such officer shall release him if the person furnishes bond with or without security as specified in section 22-B for appearance before a competent officer or a Magistrate, as the case may be.

Release on furnishing bond.

مچلکہ داخل ہونے پر رہائی۔ [دفعہ ۲۲ الف]

اختیارات مندرجہ دفعات ۱۸ و ۱۹ کے استعمال میں جب کوئی عہدہ دار کسی شخص کو گرفتار کرنے نیز جب تحت دفعہ ۲۲ کوئی گرفتار شدہ شخص کسی *[COLLECTOR] یا دیگر عہدہ دار مجاز کے روبرو حاضر ہو یا حاضر کرایا جائے تو عہدہ دار مذکور کو لازم ہوگا کہ اُس کو رہا کر دے اگر وہ کسی حاکم مجاز یا ناظم عدالت فوجداری کے روبرو (جیسی کہ صورت ہو) حاضر ہونے کی نسبت حسب صراحت دفعہ ۲۳ (ب) مچلکہ مع یا بلا ضمانت داخل کرے۔

* Substituted by Act No. XXIII of 1953.
† Amended by Act No. I of 1343 Fasli.

*Substituted by Act No. XXIII of 1953.

* ترمیم بموجب قانون نشان (۱) ۱۳۴۳ف

*22-B. In order to obtain release under section 22-A the arrested person shall according to the direction of the officer competent for so releasing, furnish a bond of the amount he may determine not exceeding a reasonable limit, with one or more securities to the effect that he shall according to the terms contained in the bond appear before an officer or a Magistrate, as the case may be, and shall after appearance, unless otherwise ordered, continue to appear as directed.

Arrested person to furnish bond with security for release.

دفعہ ۲۲-ب* گرفتار شدہ شخص کو رہائی کے لئے مچلکہ مع ضمانت داخل کرنا ہوگا۔ گرفتار شدہ شخص کو حسب دفعہ ۲۲ (الف) رہائی حاصل کرنے کے لئے بموجب ہدایات اُس عہدہ دار کے جو اس طرح رہائی کا مجاز ہو ایک مچلکہ اُس قدر رقم کا جو وہ مقرر کرے اور جو مناسب مقدار سے زائد نہ ہوگی مع ایک یا ایک سے زائد ضمانتوں کے اس مضمون کا داخل کرنا ہوگا کہ وہ بہ پابندی شرائط مندرجہ مچلکہ عہدہ دار یا ناظم عدالت فوجداری کے روبرو (جیسی کہ صورت ہو) حاضر ہو جائے گا اور حاضر ہو جانے کے بعد تاوقتیکہ کوئی اور حکم نہ دیا جائے حسب ہدایات برابر حاضر رہے گا۔

But the officer admitting the bond may, in his discretion, waive the condition of the production of one or more securities in any case and the Government may prescribe the form in which and the place at which such form of bond shall, in view of the local conditions, be caused to be furnished.

مگر یہ امر عہدہ دار قبول کنندہ مچلکہ کا اختیاری ہوگا کہ کسی صورت میں ایک یا ایک سے زائد ضمانتوں کے ادخال کی شرط کو حسب صوابدید خود متعلق نہ کرے اور سرکار عالی کو اختیار ہوگا کہ اس امر کا تعین کرے کہ باعتبار حالات مقامی کس مقام پر کس نمونہ کا مچلکہ داخل کرایا جائے گا۔

* Amended by Act No. 1 of 1343 F.

* ترمیم بموجب قانون نشان (۱) ۱۳۴۳ف

*22-C. When the person released on bond fails to appear before a competent officer in accordance with the bond and the said officer is of opinion that action should be taken to recover the penalty according to the terms contained in the bond and security from such person or his surety, he shall forward the bond and security produced to the Magistrate having power to hear the charge alleged against the accused and on receipt of such bond and security the Magistrate shall; for the recovery of the prescribed penalty, take all the measures he can take in case of having admitted the bond and security from the accused for appearance in his own court according to the provisions of the Code of Criminal Procedure.]

Procedure to recover penalty in case of non-attendance.

* Amended by Act No. 1 of 1343 F.

عدم حاضری کی صورت میں وصول تاوان کی کارروائی۔

دفعہ ۲۲۔ (ج) جب کہ مچلکہ پر رہا شدہ شخص عہدہ دار مجاز کے روبرو حسب مچلکہ حاضر ہونے سے قاصر رہے اور عہدہ دار مذکور کی یہ رائے ہو کہ شخص مذکور یا اُس کے ضامن سے حسب شرائط مندرجہ دستاویز مچلکہ وضمانت تاوان وصول کرنے کی کارروائی کیجائے تو وہ مدخلہ دستاویز مچلکہ وضمانت اُس ناظم عدالت فوجداری کے پاس روانہ کرے گا جس کو الزام منسوبہ ملزم کی سماعت کا اختیار حاصل ہو اور ایسی دستاویز مچلکہ وضمانت وصول ہونے پر ناظم مذکور تاوان مقررہ وصول کرنے کیلئے وہ جملہ تدابیر اختیار کرے گا جو وہ بروئے احکام مجموعہ ضابطہ فوجداری ملزم سے خود اپنی عدالت میں حاضری کی نسبت مچلکہ وضمانت لینے کی صورت میں کر سکتا ہے۔]

* ترمیم بموجب قانون نشان (۱) سنہ ۱۳۴۳ ف

*[23. The searches made and bails admitted under this Act shall be in accordance with the Code of Criminal Procedure 1898, and subject to the rules made by Government under clause (1) of sub-section (2) of section 3 of this Act.]

Search, how made and bail, how admitted.

دفعہ ۲۳۔ تلاشی اور ضمانت کا طریقہ۔ اس ایکٹ کے ماتحت جو تلاشیاں لی جائیں اور ضمانتیں منظور کی جائیں وہ ضابطہ فوجداری ۱۸۹۸ء کے مطابق اور اس دفعہ کی شق (۱) ذیلی دفعہ (۲) دفعہ ۳ کے ماتحت سرکار کے بنائے ہوئے قواعد کے تابع ہوں گی۔

24. Every official of the Police, Revenue and Customs Departments and every village official shall, at the request of any Abkari officer render him reasonable assistance for the operation of this Act, unless prevented by some reasonable excuse.

Assistance to be rendered to Abkari officer.

دفعہ ۲۴۔ عہدہ دار آبکاری کی امداد۔ ہر ملازم سررشتہ کوتوالی۔ مالگزاری اور کروڑگیری اور ہر ملازم دیہی کو لازم ہوگا کہ کسی عہدہ دار آبکاری کی درخواست پر اس قانون کی تعمیل کے لئے اُس کی بطور مناسب امداد کرے بجز اُس کے کہ کوئی وجہ معقول مانع ہو۔

* Substituted by Act No. XXIII of 1953.

*[24-A. Every officer employed under the Government other than an Abkari Officer, shall be bound to give immediate information to an Abkari Officer and every Abkari Officer shall be bound to give immediate information to his immediate official superior of all breaches of any of the provisions of this Act which may come to his knowledge and all such officers shall be bound to take all reasonable measures in their power to prevent the commission of any such breach which they may know or have reason to believe is about or likely to be committed.]

Offences to be reported by State Employees.

* Substituted by Act No. XXIII of 1953.

(Translation)

25. (1) Every landholder on receipt of information of the fact that a person unlawfully manufactures liquor or any intoxicating drug on any land occupied by him shall give notice of the same to the *[Collector] or to the nearest competent officer without unnecessary delay.

Matters to be reported by landholder.

*Substituted by Act No. XXIII of 1953.

امور جن کی اطلاع دینا قابض اراضی پر لازم ہے

دفعہ ۲۵ - (۱) ہر قابض اراضی پر لازم ہوگا کہ جب وہ اس امر کی اطلاع پائے کہ اُس کی کسی مقبوضہ اراضی پر کوئی شخص ناجائز طور پر شراب یا کوئی منشی شئے تیار کرتا ہے تو [*COLLECTOR] یا کسی عہدہ دار مجاز کو جو قریب تر ہو بلا تاخیر غیر ضروری اُس کی اطلاع دے۔

*Substituted by Act No. XXIII of 1953.

*[(2) In case of illegal tapping of sendhi trees situated on land occupied by a pattadar, tenant or any other person, the provisions contained in section 37-A of the Hyderabad Land Revenue Act (No. VIII of 1317 F.) shall, so far as may be, having regard to the provisions of section 13-A apply.]

*Substituted by Act No. XXIII of 1953.

‡[26. The Collector or any other Excise Officer, not below the rank of an Inspector, shall on any person being brought in custody or appearing before him on bail and on such person being accused of the breach of any provision of this Act, hold such enquiry as he may think necessary and shall either release such person or forward him in custody to or admit him to bail to appear before the Criminal Court having jurisdiction to try the case :

Power to hold preliminary enquiry.

Provided that if such inquiry is not commenced and completed on the day on which such person is arrested by or is brought or appears before such Abkari Officer, the said officer shall,

‡Substituted by Act No. XXIII of 1953.

if sufficient bail be tendered for the appearance of the person arrested, admit the said person to bail to appear on any subsequent day before himself or any other Abkari officer having jurisdiction to enquire into the case.]

Power to issue summons.

* [27. (1) The Collector or any other Excise Officer, not below the rank of an Inspector holding an enquiry under this Act may summon any person to appear before himself to give evidence in such enquiry or to produce any document relevant thereto, which may be in his possession or under his control.

* Substituted by Act No. XXIII of 1953

(2) The provisions of the Code of Criminal Procedure, 1898, shall so far as may be applied to such enquiry.]

Procedure as to prisoners under trial.

*[28. With regard to the custody of prisoners under trial and the production in court of witnesses for prosecution the provisions of the Code of Criminal Procedure, 1898, in respect thereof shall be complied with.]

* Substituted by Act No. XXIII of 1953.

*[28–A. When an Abkari Officer not below the rank of an Inspector forwards in custody any person accused of an offence under this Act to the Criminal Court, having jurisdiction to try the case, or admits any such person to bail to appear before such Criminal Court, such officer shall forward to the Criminal Court within the period and in the form prescribed by Government

Report of Abkari Officer gives jurisdiction to Criminal Court.

*Substituted by Act No. XXIII of 1953.

in this behalf, a report setting forth the particulars of the name and residence of persons acquainted with circumstances of the case and such other particulars as Government may prescribe and shall also send to such Criminal Court any article which it may be necessary to produce before it. Upon receipt of such report the Criminal Court shall enquire into such offence and try the person accused thereof in like manner as if complaint had been made before it as prescribed in the Code of Criminal Procedure, 1898.

(Translation)

29. Where any property seized under this Act is placed in charge of a Station-house Officer, he shall, pending order of a Court or competent officer, preserve the same in his custody, and shall at the request of the officer depositing the same, allow it or any part thereof to be taken away.

Who shall be placed in charge of property seized.

گرفتار شدہ مال کس کے سپرد کیا جائے گا ۔

دفعہ ۲۹ ۔ جب کوئی مال جو حسب قانون ہذا گرفتار کیا جائے کسی عہدہ دار منتظم تھانہ کے سپرد کیا جائے تو اُس پر لازم ہوگا کہ تا صدور حکم عدالت یا عہدہ دار مجاز اُس مال کو اپنی حفاظت میں رکھے اور عہدہ دار داخل کنندہ کی درخواست پر اُس کو یا اُس کا کوئی جزو لے جانے کی اجازت دے ۔

†[30. It shall be lawful for the Court or Collector in the Cities of Hyderabad and Secunderabad for the Commissioner of Police to direct with a view to prevent breach of the peace that any shop where liquor is sold shall be closed for a reasonable period.]

Power to close the shop for prevention of breach of peace.

†Substituted by Act No. XXIII of 1953.

CHAPTER V.

INQUIRIES INTO OFFENCES AND PUNISHMENT.

باب ۵

جرائم کی تحقیقات اور سزا۔

Punishment for contravention of sections 8, 9, 10, 10-A (1), 11 or 12.

*[31. Whoever contravenes any of the provisions of section 8, section 9, section 10, sub-section (1) of section 10-A, section 11 or section 12 of this Act shall, on conviction before a Magistrate, be punished for each such offence with fine which may extend to one thousand rupees and with imprisonment for a term which may extend to six months :

*Substituted by Act No. XXIII of 1953.

Provided that if a person convicted of any one or more of the said offences is convicted on a subsequent occasion for any of the same offences, he shall be liable to be punished for each such offence with imprisonment for a term which may extend to one year and with fine which may extend to two thousand rupees.]

32. *[(1) Whoever, being the holder of a licence for the sale or manufacture of liquor or sendhi under this Act—

Cheating in respect of liquor etc.

(a) mixes or permits to be mixed with liquor or sendhi sold or manufactured by him or any other person on his behalf—

(i) any noxious drug prohibited under clause (a) of sub-section (2) of section 3; or

(ii) any other ingredient likely to add to its actual or intoxicating quality or strength; or

*Substituted by Act No. XXIII of 1953.

*(b) with bad intent sells, keeps or exposes for sale, any State liquor as any Country liquor or foreign liquor or liquor of superior kind or strength, shall, on conviction before a Magistrate, be punished for the contravention of sub-clause (i) of clause (a) with fine which may extend to five hundred rupees and with imprisonment for a term which may extend to three months and, for the contravention of sub-clause (ii) of clause (a) or clause (b), with fine which may extend to five hundred rupees or with imprisonment for a term which may extend to three months or with both.

*Substituted by Act No. XXIII of 1953.

*1-A. Nothing in sub-section (1) shall apply to an offence punishable under sub-section (1) of section 33.]

(2) Where a complaint has been lodged against any person for cheating under the circumstances mentioned in sub-section (1), the decision thereof shall be awaited; and if the accused is convicted or acquitted on that charge, no further proceedings under this section shall be taken against him.

(۲)۔ اگر کسی شخص پر واقعات متذکرۂ ضمن (۱) کی بناء پر دغا کا استغاثہ کیا گیا ہو تو اُس کے تصفیہ تک انتظار کیا جائے گا اور اگر اُس الزام میں ملزم سزایاب یا بری ہو جائے تو پھر اس کے مقابلہ میں حسب دفعہ ہذا کوئی کارروائی نہ کیجا سکیگی۔

*Substituted by Atc No. XXIII of 1953.

قانون آبکاری ۔ نشان (۱) سنہ ۱۳۱۶ف

Responsibility of licensee and punishment therefor.

33. * [(1) A licensee who—

دفعہ ۳۳ ۔ [(۱)[1] جو شخص اجازت یافتہ کی ذمہ داری اور اُس کی سزاء ۔

شخص اجازت یافتہ ۔

(i) does not, without sufficient cause, produce his licence when demanded by any Abkari or other competent officer; or

(۱) ۔ کسی افسر آبکاری یا دیگر عہدہ دار مجاز کی طلبی پر اپنا اجازت نامہ بلا وجہ معقول پیش نہ کرے ۔ یا

(ii) acts in contravention of the conditions of the licence; or

(۲) ۔ اجازت نامہ کے شرائط کے خلاف عمل کرے ۔ یا

(iii) wilfully contravenes any rule made under section 3;

(۳) ۔ بالارادہ کسی ایسے قاعدہ کے خلاف عمل کرے جو حسب دفعہ ۳ نافذ کیا گیا ہو ۔

shall be punishable with fine upto two hundred rupees or with imprisonment for three months, or with both.]

اس کو دو سو روپیہ تک جرمانہ یا تین مہینے تک قید یا دونوں سزائیں دی جاسکیں گی ۔]

†[(2) Whenever any person, being a licence holder or his servant acting on

[(۲)[2] ۔ جب کوئی شخص جو اجازت یافتہ ہو یا اُس کا ملازم ہو اور اس کی جانب سے عمل کر رہا ہو

*Amended by Act No. IV of 1334 F.
†Amended by Act No. I of 1343 F.

[1] ۔ ترمیم بموجب قانون نشان (۴) سنہ ۱۳۳۴ف
[2] ۔ " " " قانون نشان (۱) سنہ ۱۳۴۳ف

his behalf, keeps open any toddy, sendhi or liquor shop within the limits of the city of Hyderabad beyond the prescribed hours in contravention of the conditions of clause (ii) of sub-section (1), any Police officer, not below the rank of a Head Constable, and any officer, not below the rank of a Sub-Inspector, may hold a panchnama on the spot and obtain from him a bond with or without sureties for appearance before the *[Collector] or some other competent Abkari officer. On the appearance of the accused the *[Collector] or the said officer shall make such enquiries as he may deem fit, and thereafter release the accused or obtain from him a bond with or without sureties for appearance before a Magistrate having the power to try the case. Provisions of sections 22-B and 22-C, in so far as they are applicable, shall apply to proceedings regarding the bond and surety under this sub-section.]

* Substituted by Act No. XXIII of 1953.

ضمن (۱) نقرہ (۲) کی شرائط کے خلاف حدود بلدہ میں تاڑی ۔ سیندھی یا شراب کی کوئی دکان اوقات مقررہ کے سوائے کھلی رکھے تو ہر عہدہ دار کو توالی کو جس کا درجہ جمعدار سے اور ہر عہدہ دار آبکاری کو جس کا درجہ سب انسپکٹر سے کم نہ ہو اختیار ہوگا کہ موقع پر پنچنامہ کرکے اُس سے [*COLLECTOR] یا کسی دوسرے عہدہ دار آبکاری مجاز کے اجلاس پر حاضری کے لئے مچلکہ مع یا بلا ضمانت لے [*COLLECTOR] یا عہدہ دار مذکور ملزم کی حاضری پر ایسی تحقیقات کرے گا جو وہ مناسب خیال کرے اور اُس کے بعد ملزم کو رہا کر دے گا یا ایسے ناظم عدالت فوجداری کے روبرو حاضر ہونے کیلئے اُس سے مچلکہ مع یا بلا ضمانت لیگا جسکو مقدمہ کی سماعت کا اختیار حاصل ہو۔ احکام دفعات ۲۲(ب) و ۲۲(ج) جہاں تک متعلق ہوسکیں ضمن ہذا کے تحت مچلکہ و ضمانت کی کاروائیوں سے متعلق ہونگے ۔]

*Substituted by Act No. XXIII of 1953.

*[34. Whoever purchases or keeps in his possession any liquor which he knows to be illegally imported or transported or illicitly distilled shall be punished with imprisonment for a term which may extend to six months and shall also be liable to a fine to the extent of one thousand rupees.]

Punishment for possession of illicit liquor.

*Substituted by Act No. XIV of 1955.

*[34-A. (1) Whoever renders or attempts to render fit for human consumption any spirit which has been denatured or has in his possession any spirit in respect of which he knows or has reason to believe that any such attempt has been made, shall on conviction, before a Criminal Court be punished with imprisonment for a term which may extend to three months or with fine which may extend to Rs. 1,000 or with both.

Punishment for rendering or attempting to render denatured spirit fit for human consumption.

*Substituted by Act No. XXIII of 1953.

(2) For the purposes of this section it shall be presumed, unless and until the contrary is proved, that any spirit which is proved on chemical analysis to contain any quantity of the prescribed denaturants, is or contains or has been derived from denatured spirit.]

Punishment of officers acting in contravention of this Act.

*[35. Any officer or other employee of Government, who exercising powers under this Act—

(a) unlawfully releases or allows to escape after arrest any person accused of having contravened any of the provisions of this Act; or

*Substituted by Act No. XXIII of 1953.

*(b) unlawfully releases any article seized or confiscated under the provisions of this Act; or

(c) intentionally acts in the discharge of his duties in such a manner as to cause any breach of the provisions of this Act; or

(d) intentionally omits to do any act which he is bound to do by virtue of his office so as to adversely affect the Abkari revenues; or

*Substituted by Act No. XXIII of 1953.

*(e) without reasonable ground of suspicion enters or searches or causes to be searched any closed place; or

(f) vexatiously and unnecessarily detains, searches or arrests any person; or

(g) vexatiously and unnecessarily seizes property of any person on the pretence of lawfully seizing it under this Act; or

*Substituted by Act No. XXIII of 1953.

(h) in any other way vexatiously exceeds his lawful powers;

shall, on conviction before a Criminal Court, be punished for any such offence with fine not exceeding Rs. 500 or with imprisonment for a term not exceeding 6 months or with both.]

Punishment for abetment of offences against the Act.

*[36. (1) Any person who unlawfully releases (and is not liable under section 35) or attempts to release, any article seized or confiscated under this Act or

*Substituted by Act No. XXIII of 1953.

abets the escape of any person arrested under this Act or abets the commission of any offence against this Act, shall on conviction before a Criminal Court be punished with fine to the extent of half of the maximum amount prescribed for the offence so abetted or with imprisonment for a term extending to half of the term prescribed for the offence so abetted or with both.

*(2) Whoever, intentionally prevents or tries to prevent any officer from the discharge of his lawful duties shall, on conviction before a Criminal Court, be punished with fine which may extend to Rs. 500 or with imprisonment which may extend to 6 months, or with both.]

37. Penalty for Abkari officer leaving his duty without notice.

*[Omitted.]

*Omitted by Act No. XXIII of 1953.

دفعہ ۳۷۔ عہدہ دار آبکاری کی سزا جو بلا اطلاع اپنے کام سے علیحدہ ہو جائے۔

‡[Omitted]

*Substituted by Act No. XXIII of 1953.
‡Omitted by Act No. XXIII of 1953.

Punishment for offences not otherwise provided for in the Act or Rules.

*[37–A. Whoever is guilty of an act or intentional omission in contravention of any of the provisions of this Act, or of any rule or order made thereunder and not otherwise provided for in this Act, shall be punished for each such act or omission with fine which may extend to Rs. 500.]

*Substituted by Act No. XXIII of 1953.

*[38. (1) In prosecutions under sections 31, 34 and 34-A, it shall be presumed until the contrary is proved that the accused person has committed an offence punishable under that section in respect of—

Presumption as to commission of offences in cetrain cases.

(a) any liquor, or sendhi, or

(b) the timber of any felled tree of any kinds specified in clause (17) of section 2, or

*Substituted by Act No. XXIII of 1953.

*(c) any still, utensil, implements or apparatus, whatsoever for the manufacture of any liquor or for the rendering of denatured spirit fit for human consumption, or

*(d) any materials which have undergone any process towards the manufacture of any liquor or from which any liquor has been manufactured, or

*(e) any denatured spirit which has undergone any process towards rendering it unfit for human consumption or which has been rendered fit for human consumption,

*Substituted by Act No. XXIII of 1953.

for the possession of which, he is unable to account satisfactorily.

*(2) The holder of licence or permit under this Act shall be punishable, as well as the actual offender, for any offence punishable under this Act or rules thereunder committed by any person in his employ and acting on his behalf as if he has himself committed the same, unless he shall establish that all due and reasonable precautions were exercised by him to prevent the commission of such offence.]

*Substituted by Act No. XXIII of 1953.

Order in respect of articles.

*[39. (1) Where an offence punishable under this Act is proved to have been committed, the liquor, ‡[sendhi,] mohwa flowers, still, utensils, implements or apparatus in respect or by means of which an offence has been committed shall be liable to confiscation by order of the Court.

*Substituted by Act No. XXV of 1952.
‡Substituted by Act No. XXIII of 1953.

*(2) Any receptacle, package or covering in which any of the articles liable to confiscation under sub-section (1) is found and the other contents, if any, of such receptacle, package or covering and the animals, carts, vessels, lorries or other conveyances used in carrying any such article shall likewise be liable to confiscation by order of the Court :

Provided that no such animal, cart, vessel, lorry or other conveyance shall be confiscated if the owner thereof satisfies the court that he has exercised due care in preventing the commission of the offence.

*Substituted by Act No. XXV of 1952.

*(3) If any article mentioned in sub-section (1) or sub-section (2) is found but the commission of any offence in connection therewith has not been proved, the Collector may pass proper orders in respect thereof:

Provided that no order has been passed by a Court in respect of such article, or no case for trial of an offence in respect thereof has been instituted in any Court.]

‡[40. The trial of offences under this Act shall be conducted in a Criminal Court in accordance with the provisions of the Code of Criminal Procedure, 1898.]

Procedure for trials.

*Substituted by Act No. XXV of 1952.
‡Substituted by Act No. XXIII of 1953.

41. (1) No action for damages shall be entertained by a Civil Court against *[Government] or against any Abkari officer for any act done or ordered to be done in good faith and in accordance with this Act.

Bar of action.

نالش کی ممانعت ۔] دفعہ ۴۱ ۔ (۱) کسی ایسے فعل کی بابت جو مطابق قانون ہذا نیک نیتی سے کیا گیا ہو یا اُس کے کئے جانے کا حکم دیا گیا ہو کوئی نالش ہرجہ کی عدالت دیوانی میں بمقابلہ [سرکار عالی] یا کسی عہدہ دار آبکاری کے قابل سماعت نہ ہوگی۔

(2) All actions against any Abkari officer and all actions which may be lawfully brought against *[Government] or against any Abkari officer on account of any act or thing alleged to have been done in accordance with this Act, shall not be entertained after six months from the date of doing the act or the thing.

(۲) ۔ تمام نالشات جو کسی عہدہ دار آبکاری سے متعلق ہوں اور تمام نالشات جو کسی فعل یا امر کے باعث جس کا قانون ہذا کے مطابق وقوع میں آنا بیان کیا جائے [سرکار عالی] یا کسی عہدہ دار آبکاری کے مقابلہ میں جواز اً ہو سکتی ہوں تاریخ وقوع فعل یا امر مذکور سے چھ مہینے کے بعد قابل سماعت نہ ہوں گی۔

(3) If, in a suit for compensation for damages it is proved that adequate compensation was being tendered before the institution of the suit, it shall be lawful for the court in its judgment to disallow costs to the plaintiff and lay on him the costs of the defendant.

(۳) ۔ کسی معاوضہ نقصان کی نالش میں جب یہ ثابت ہو کہ قبل ارجاع نالش کافی معاوضہ دیا جاتا تھا تو عدالت کو جائز ہوگا کہ فیصلہ کی رو سے مدعی کو خرچہ نہ دلائے ۔ اور مدعی علیہ کا خرچہ اُس کے ذمہ عائد کرے ۔

* Amended by Act No. I of 1343 F.

* ترمیم بموجب قانون نشان (۱) سنہ ۱۳۴۳ف

*[41-A. Any Abkari officer specially empowered by Government in this behalf may accept from any person whose licence, permit or pass is liable to be cancelled, or suspended under clauses (1) or (2) of section 16, or who is reasonably suspected of having committed an offence under sections 31, 32, 32-A, 33, 34 or 34-A a sum of money in lieu of such cancellation or suspension, or by way of composition for the offence which may

Power to compound offences.

*Substituted by Act No. XXIII of 1953.

have been committed; and in all cases whatsoever in which any property other than toddy, sendi or liquor has been seized under this Act, may release the same on payment of the value thereof as estimated by such officer:

Provided that where a person who is reasonably suspected of having committed an offence under section 31 or 34 is not the holder of a licence, permit or pass granted under this Act, or a person in the employ of such holder, or a person acting with his express or implied permission on his behalf, the

sum of money which may be accepted from such person by way of composition shall not exceed one thousand rupees. On the payment of such sum of money or such value, or both, as the case may be, to such officer, such person, if in custody, shall be set at liberty and the property seized shall be released, and if any criminal proceedings have been instituted against such person, the composition shall be held to amount to an acquittal, and in no case shall any further proceedings be taken against such person or property with reference to the same facts.]

CHAPTER VI.

MISCELLANEOUS.

Duties of licensee.

42. The person who manufactures or sells liquor having obtained a licence under this Act, shall keep, at the place of manufacture or sale, such measure for selling the liquor and such instrument for testing the strength of the same as are prescribed by *[Government.]

*Amended by Act No. I of 1343 F.

باب ۶

متفرق

اجازت یافتہ کے فرائض۔ دفعہ ۴۲۔ جو شخص حسب قانون ہذا اجازت نامہ حاصل کر کے شراب تیار یا فروخت کرے اُس پر لازم ہوگا کہ شراب کی فروخت کے لئے ایسا پیمانہ اور اس کی طاقت کی آزمایش کے لئے ایسا آلہ جو [سرکار عالی] نے مقرر کیا ہو مقام تیاری یا فروخت پر موجود رکھے

* ترمیم بموجب قانون نشان (۱)، ۱۳۴۳ف

*[43. The lessee may within one year cause all amounts due to him to be realised through the Collector in the manner and subject to such conditions as may be prescribed in this behalf, as if they were arrears of land revenue, from every such person who may have occupied the business relating to the lease to the extent of the period of his occupation :

Procedure for collection of Abkari arrears due to lessees.

*Substituted by Act No. XXIII of 1953.

Provided that—

(a) the lessee has paid all amounts due from him to Government; and

(b) such person has occupied the business on the basis of a written agreement between him and the lessee and such agreement is produced and proved to have been attested in the prescribed manner before the Collector or such other officer as may be authorised by Government in this behalf.]

44. Where a lease granted by ‡[Government] on receiving of Nazrana and duly certified, contains any condition the intention of which is contrary to any provision of this Act, such provision of this Act shall not affect it.

Effect of provision of this Act on lease containing any condition contrary to intention of this Act.

45. *[Omitted.]

‡Amended by Act No. I of 1343 Fasli.
*Omitted by Act No. XXIII of 1953.

جس قول میں منشاء قانون ہذا کے خلاف کوئی شرط درج ہو اس پر قانون ہذا کے حکم کا اثر۔

دفعہ ۴۴ ۔ اگر کسی ایسے قول میں جو باخذ نذرانہ [سرکار عالی][1] عطا کیا ہو اور جس کی حسب ضابطہ تصدیق ہوئی ہو کوئی ایسی شرط درج ہو جس کا منشا اس قانون کے کسی حکم کے خلاف ہو تو قانون ہذا کا وہ حکم اس کے خلاف موثر نہ ہوگا ۔

مرافعہ و نگرانی ۔

دفعہ ۴۵

[1] ۔ ترمیم بموجب قانون نشان (۱) ۱۳۴۳ف